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February 10, 2006

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: WC Docket No. 06-10; Comments of San Diego Gas & Electric Company
in Support of UPLC Petition for Declaratory Ruling**

Dear Ms. Dortch:

San Diego Gas & Electric Company ("SDG&E"), by and through its undersigned counsel, hereby submits these comments in support of the Petition for Declaratory Ruling filed by the United Power Line Council in the above-referenced docket.

Should you have any questions concerning this filing, please do not hesitate to contact the undersigned at (619) 699-5042.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Aimee Cook Smith", is written over the typed name. The signature is fluid and stylized, with the first letters of the first and last names being capitalized and prominent.

Aimee Cook Smith

Counsel for San Diego Gas & Electric Company

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| United Power Line Council |) | WC Docket No. 06-10 |
| Petition for Declaratory Ruling Regarding |) | |
| the Classification of Broadband over |) | |
| Power Line Internet Access Service as an |) | |
| Information Service |) | |
| |) | |

**COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY
IN SUPPORT OF UPLC PETITION FOR DECLARATORY RULING**

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Counsel for San Diego Gas & Electric Company

February 10, 2006

**BEFORE THE
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| |) | |

**COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY
IN SUPPORT OF UPLC PETITION FOR DECLARATORY RULING**

Pursuant to Section 1.405 of the Code of Federal Regulation^{1/} and the Public Notice issued by the Federal Communications Commission (the “Commission”) on January 11, 2006,^{2/} San Diego Gas & Electric Company (“SDG&E”), by and through its undersigned attorney, hereby submits these comments in support of the Petition for Declaratory Ruling (the “Petition”) filed by the United Power Line Council (“UPLC”).

I. INTRODUCTION

SDG&E, a subsidiary of Sempra Energy, is a California utility engaged in the transmission, distribution, and sale of electricity. SDG&E distributes electricity at retail to some 1.3 million customers in Southern California and, as is discussed in more detail below, is currently exploring the feasibility of developing Broadband over Power Line (“BPL”) technology. SG&E supports UPLC’s request for a declaratory ruling classifying BPL-enabled Internet access services as an interstate information service. As SDG&E

^{1/} 47 CFR § 1.405(a).

^{2/} Pleading Cycle Established for Comments on United Power Line Council’s Petition for Declaratory Ruling Regarding the Classification of Broadband Over Power Line Internet Access Service as an Information Service, DA 06-49 (Jan. 11, 2006).

explains below, such action is consistent with Commission policy and precedent, and will serve the public interest by promoting the further development of BPL technology.

II. GRANT OF THE PETITION IS CONSISTENT WITH COMMISSION PRECEDENT AND WILL SERVE THE PUBLIC INTEREST

As the Commission has recognized, BPL is a new broadband delivery medium capable of competing with DSL, cable modem and other broadband services.^{3/} Because BPL service utilizes electric distribution facilities, it could potentially be made available to virtually every element of the broadband market, including residential, institutional and commercial users, as well as users in rural and other underserved areas.^{4/} Although the technology is distinct from DSL and cable modem service in terms of the underlying infrastructure and equipment used, it is the functional equivalent to DSL and cable modem services in that it is a “functionally integrated finished service that inextricably intertwines information-processing capabilities with data transmission such that the consumer always uses them as a unitary service.”^{5/}

In its Petition, UPLC correctly asserts that the Commission’s policy of regulating like services in a similar manner supports classification of BPL-enabled broadband service as an interstate information service.^{6/} In considering the appropriate regulatory classification of cable modem service and DSL service, the Commission concluded that

^{3/} *In re Amendment of Part 15 regarding new requirements and measurement guidelines for Access Broadband over Power Line Systems; Carrier Current Systems, including Broadband over Power Line Systems*, Report & Order, ET Docket Nos. 04-37, 03-104, Report and Order, FCC 04-245, at ¶ 1 (rel. Oct. 28, 2004) (hereinafter referred to as the “BPL Order”).

^{4/} BPL Order ¶ 13.

^{5/} UPLC Petition, p. 3 (citing *Notice of Inquiry Concerning High-Speed Access to the Internet over Cable and Other Facilities*, Declaratory Ruling and Notice of Proposed Rulemaking, GN Docket No. 00-185, ¶ 38 (2002), *aff’d National Cable Telecomms. Assn v. Brand X Internet Svcs.*, 125 S. Ct. 2688 (2005); *Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities*, Report and Order and Notice of Proposed Rulemaking, CC Docket No. 02-33, ¶ 9 (2005)).

^{6/} UPLC Petition, p. 3.

both services are properly characterized as “information” services because they provide the “capability for generating, acquiring, storing, transforming, processing retrieving, utilizing or making information available via telecommunications.”^{7/} Because BPL also provides this capability, and because, as UPLC notes, “BPL is also an interstate service, in the sense that traffic is routed over the Internet, like cable modem and DSL services,”^{8/} it is properly classified as an interstate information service. Accordingly, the Commission should find that Commission policy and precedent support grant of the Petition.

Grant of the Petition will help to eliminate the regulatory uncertainty that currently serves as an obstacle to investment in and full-scale deployment of BPL systems. This goal has been expressly adopted by the Commission, which has made clear its intent to “remove regulatory uncertainty for BPL operators, thereby facilitating the introduction and use of this promising new technology.”^{9/} As the Commission has recognized, BPL holds great potential as a new method of delivery of broadband services and “encouraging the deployment of this technology in the United States will support globalization of products and services, promote continued U.S. leadership in broadband technology, and bring important benefits to the American public.”^{10/}

^{7/} See, 47 U.S.C. § 153(20).

^{8/} UPLC Petition, p. 3.

^{9/} See, *In re Carrier Current Systems, including Broadband over Power Line Systems and Amendment of Part 15 regarding new requirements and measurement guidelines for Access Broadband over Power Line Systems*, Notice of Proposed Rulemaking, ET Docket Nos. 03-104 and 04-37, ¶ 1 (rel. Feb. 23, 2004).

^{10/} BPL Order, ¶ 10.

Introduction of a third facilities-based broadband service will benefit consumers by increasing competition in the market for broadband access service, which will result in lower rates and enhanced technological innovation. In addition, as the Petition notes, availability of BPL service has the potential to improve homeland security through the development of a redundant communications network.^{11/} BPL can also be used to monitor and control the electric power distribution grid – so called “smart grids” allow the electric utility to quickly identify and oftentimes prevent outages, and make available advanced metering applications such as automatic meter reading, demand monitoring management and remote shut-off, which enhance energy efficiency, cost saving and network security efforts. As the Petition notes, however, the currently uncertainty concerning the appropriate regulatory classification of BPL has hampered development of the service and has delayed the availability of these benefits.

SDG&E’s own experience with BPL reflects this reality. SDG&E began a pilot of BPL service in September, 2005 in order to examine the state of the technology, its usefulness in terms of utility applications, and issues related to the installation and integration of equipment into the utility network. While SDG&E sees promise in BPL and has participated actively in proceedings before the California Public Utilities Commission related to introduction of BPL service in California, it is keenly aware of the risks inherent in offering this service.

BPL is a nascent technology competing with entrenched providers that currently control 92% of all advanced service lines.^{12/} The further development of BPL depends upon utilities’ ability to define a model for providing service and to justify the capital

^{11/} UPLC Petition, p. 6.

^{12/} UPLC Petition, p. 6.

expense necessary to deploy the service, equipment manufacturers' certainty that their efforts to develop and market BPL devices will meet with success, belief by Internet service providers that BPL is a viable delivery medium for their service and confidence by the investment community that the risks inherent in BPL can be reasonably quantified. All of this depends fundamentally upon establishing certainty concerning the applicable regulatory framework. It also depends upon ensuring that BPL is not disadvantaged in terms of the regulatory burden imposed upon the service. Given the already substantial challenges faced by BPL in terms of the nature of the competition that it faces and its relatively late entry into the broadband market, imposing more stringent or burdensome regulation on BPL than currently exists for DSL and cable modem service would likely serve as the death knell of the service. Thus, it is critical to the ongoing viability of BPL that it be classified as an interstate, information service, consistent with the classification of DSL and cable modem service. For this reason, SDG&E strongly supports the Petition and urges the Commission to issue a declaratory ruling classifying BPL-enabled Internet access services as an interstate information service.

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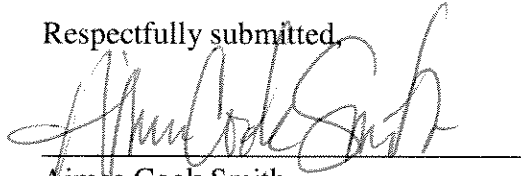
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III. CONCLUSION

For the foregoing reasons, SDG&E urges the Commission to grant the Petition and to issue a declaratory ruling classifying BPL-enabled Internet access services as an interstate information service.

Respectfully submitted,

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Aimee Cook Smith
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Counsel for San Diego Gas & Electric Company

February 10, 2006

CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2006, I caused a copy of the foregoing Comments of San Diego Gas & Electric Company in Support of UPLC Petition for Declaratory Ruling to be served via U.S. mail on the following:

Brett Kilbourne
United Telecom Council
1901 Pennsylvania Avenue, N.W.
Fifth Floor
Washington, D.C. 20006

Comments were also served via electronic mail on the following:

Janice Myles
Competition Policy Division
Wireline Competition Bureau
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445 12th Street, S.W., Room 5-C140
Washington, D.C. 20554
Janice.Myles@fcc.gov

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Courtesy copies were provided via U.S. mail to the following:

Kevin J. Martin, Chairman
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Michael J. Copps, Commissioner
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Courtesy copies were also provided via electronic mail to the following:

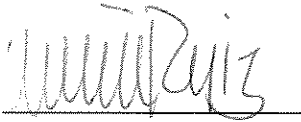
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Dated this 10th day of February, 2006 at San Diego, California.

A handwritten signature in dark ink, appearing to read "Annie Ruiz", is written over a horizontal line.

Annie Ruiz.